99TH CONGRESS
2d Session

SENATE

TREATY DOC.
99-27

BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS OF SEPTEMBER 9, 1886, COMPLETED AT PARIS ON MAY 4, 1896, REVISED AT BERLIN ON NOVEMBER 13, 1908, COMPLETED AT BERNE ON MARCH 20, 1914, AND REVISED AT ROME ON JUNE 2, 1928, AT BRUSSELS ON JUNE 26, 1948, AT STOCKHOLM ON JULY 14, 1967, AND AT PARIS ON JULY 24, 1971 AND AMENDED IN 1979

JUNE 20, 1986.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

---

U.S. GOVERNMENT PRINTING OFFICE

71-118 O

WASHINGTON : 1986

S385-15

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *June 18, 1986.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to accession, I transmit herewith the Berne Convention for the Protection of Literary and Artistic Works. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention.

The Convention obligates States party to the Convention to maintain high levels of protection for artistic works. The extent of protected works is broad, ranging from conventional works—such as books, motion pictures, and music—to new technological works including audio and video cassettes, and computer-related works. The Convention contains detailed provisions that specify minimum levels of protection to be provided by member countries.

Adherence to the Convention by the United States will demonstrate our commitment to improving international protection afforded intellectual property. When we are urging other countries to enhance copyright protection, the United States can no longer remain outside the Berne Union. It is, therefore, a matter of some urgency that the United States finally join the Berne Convention.

As indicated in the report of the Department of State, implementation of the Convention will require legislation. Until this legislation is enacted, the United States instrument of accession will not be deposited with the Director General of the World Intellectual Property Organization.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to accession.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, June 4, 1986.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to accession, the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, and revised at Rome on June 2, 1928, at Brussels on June 26, 1948, at Stockholm on July 14, 1967, and at Paris on July 24, 1971 and amended in 1979 (hereinafter "the Convention"). As of January, 1986, seventy-six nations were party to the Convention. Upon the recommendation of the former Cabinet Council on Commerce and Trade, you endorsed adherence to the Convention in 1985.

The Convention is administered by the World Intellectual Property Organization (WIPO) and is the oldest and most important multilateral copyright treaty. The Convention's members pledge to maintain high levels of protection for the rights of authors in their literary and artistic works. The extent of protected works is broad, ranging from conventional works—such as books, motion pictures, and music—to new technological works including video cassettes and computer-related works. The Convention contains detailed provisions that specify minimum levels of protection to be provided by member countries.

Because of differences of certain copyright principles, the United States has not adhered to the Berne Convention. These differences include United States requirements for copyright formalities such as notice and registration, and requirements for domestic manufacture to obtain protection. The United States, the Soviet Union and China are the only major countries that are not parties to the Convention.

The fundamental principle of the Berne Convention is protection based upon national treatment. Works entitled to the benefits of the Convention enjoy in each country of the Berne Union the advantages accorded to the works of nationals of the country where protection is sought. Because the Convention minima are explicit and substantial, the level of assured protection is higher than that afforded by the Universal Copyright Convention.

Some of the Convention minima are:

—protection of unpublished and published works of nationals of Berne Union countries; and, of all works first published in

any member country, even when authored by nationals of non-Union countries;
—term of protection is generally life of the author plus 50 years;
—exclusive right to make and authorize translations and other adaptations;
—right to perform publicly dramatic and musical works;
—right of reproduction by any means or process;
—right to authorize communication of a work to the public (original broadcasting and secondary retransmission);
—exclusive right of authorizing the first recording of musical works;
—moral rights of the author—right to claim authorship and to object to any distortion, mutilation, or other alteration that would be prejudicial to the author's honor or reputation.

The latest version of the Berne Convention is the text agreed to on January 24, 1971 at Paris, when the Berne Convention was revised. This version contains special provisions in favor of developing countries regarding translation and reproduction for educational purposes. Following is a summary of the 1971 text of the Berne Convention to which the United States would adhere.

Article 1 of the Convention establishes that the countries to which it applies form a single Union.

Article 2 defines the subject matter of protection: "literary and artistic works". These include all productions in the literary, scientific and artistic domain, without limitation by reason of the mode or form of their expression. The value, merit or intended purpose of a work is irrelevant to protection under the Convention. Further, the list of protected works in Article 2 is intended to be merely illustrative rather than exhaustive. A State party to the Berne Convention remains free to maintain legal standards which determine whether particular examples of the kinds of works listed in Article 2 are to be protected; that they involve some minimum of creative expression; that they be original in their creation (that is, done without copying); and that protection for a work not extend to the underlying ideas, systems, formats or utilitarian aspects of a work which would fall into the realm of industrial rather than literary and artistic property.

Article 2(2) of the Convention authorizes States to require as a condition of protection of a work that works be "fixed in some material form", thus permitting the exclusion from protection of ephemeral performances not reduced to a medium of tangible expression.

Article 2(3) of the Convention establishes the principle of the protection of derivative works independently of the original works upon which they are based and without prejudice to the copyright status of the underlying original.

Article 2(4) and (5) deal with protection of so-called official texts and collective works. Protection of the former is left entirely to national discretion. In the latter case, such collections of pre-existing materials which evidence intellectual creativity by reason of the "selection and arrangements of their contents" are to be protected as original works, apart from the copyright status of the particular contents.

Article 2(6) establishes the central principle that works mentioned in Article 2(2) enjoy protection in all countries of the Union and that such protection "shall operate for the benefit of the author and his successors in title."

Article 2(7) constitutes an important exception to the general obligation derived from Article 2(2) to protect works of "applied art," and industrial designs and models. The Convention permits States to set the extent of application of their copyright laws to such works as well as to prescribe conditions for their protection. This discretion is limited with respect to the term of protection which is set at a minimum of 25 years from the making of the work.

Article 2(8) provides that protection of works under the Convention shall not require the protection of "news of the day" or to "miscellaneous facts having the character of mere items of press information". This provision is in general accordance with well-accepted copyright principles which protect the creative expression of an author, but not the underlying factual information which such expression relates.

Article 2bis of the Convention provides that the scope of protection accorded political speeches and speeches delivered in the course of legal proceedings and of lectures and addresses is subject to national discretion. The Convention requires only that the right of the author of such oral works to make or authorize the making of a collection of such speeches or lectures be recognized.

Article 3 contains the first of a number of provisions the object of which is to lay down the points of attachment of the Convention, i.e., the conditions to be fulfilled if protection is to be enjoyed under it. The Convention protects the works of authors who are nationals of the countries of the Union (or have their habitual residence in one of them), whether published or not and wherever first published—either in a Union country or elsewhere, as well as works of any national first published in a Union country.

Article 4 provides special points of attachment for motion pictures and architectural works which do not have "nationality" in the ordinary sense of Article 3 of the Convention. Article 4 deals with this problem by establishing that the Convention's protection extends to films, the maker of which "has his headquarters or habitual residence in one of the countries of the Union;" and, to architectural works "incorporated in a building or other structure located in a country of the Union."

Article 5 sets out the fundamental principles on which the Convention is based: national treatment; automatic protection; and the independence of copyright protection as between the country of origin of a work and the other countries of the Union. It assures, first of all, to protected works national treatment; that is, works which originate in a Berne Union country obtain in all other Berne Union countries the same protection as the latter give to the works of their own nationals as well as the rights specially granted by the Convention.

Article 5(2) requires automatic protection, that is, the enjoyment and exercise of rights may not be conditioned on the observance of any formality whatsoever. The same Article establishes the principles of the independence of protection. This means that, apart from the specific provisions of the Convention (the Convention minima),

the extent of protection is governed by the laws of the country where protection is claimed, and not dependent upon protection anywhere else, nor upon reciprocity.

Further, Article 5 establishes the rule that protection within the country of origin of a work (the place of first publication for published works) is a matter exclusively for the domestic law of that country and is outside the scope of Convention obligations. This is true whether the author is a national of that country or not.

Article 6 allows Union countries the possibility of restricting protection in the case of works of nationals of certain non-Union countries which fail to protect in an adequate manner the works of nationals of Union countries. This provision was introduced into the Convention in order to permit limited retaliation against non-Union member countries whose nationals secured protection within the countries of the Union by the device of first publishing their work in a Union State. Although it was never invoked for that purpose, the provision was designed for use against the United States, which had at the time a copyright law less generous than those found in States party to the Berne Convention, and whose publishers had regularly published their works in Canada in order to claim, through the so-called "backdoor", protection under the Berne Convention.

Article 6bis provides that, in addition to economic rights, copyright under the Convention also encompasses so-called moral rights. These rights including the author's prerogatives to claim the paternity of his or her work (to be correctly credited as the author) and to object to any distortion, mutilation or other modification of the work which would be prejudicial to the author's honor or reputation.

The Convention further establishes that moral rights shall generally extend for the term of economic rights; that is, even after the death of the author. Nonetheless, Article 6bis(2) of the Convention permits Union States to determine by whom such right may be exercised *after* the author's death; and, States which have not at the time of accession to the Convention, extended moral rights into the post-mortem term of copyright, may limit rights during this period. In general, the precise means by which authors and their successors to moral rights may exercise and obtain redress for violations of moral rights are left to national discretion.

Article 7 sets out the minimum term of copyright duration binding on all countries of the Union. The general rule is for a term of life of the author and fifty years after his death. However, for certain works for which calculation of term based upon the life of a natural person is impractical, or out of step with the laws of many countries, Article 7 provides special terms. Thus, Article 7(2) provides a minimum term of copyright in motion pictures of 50 years from public availability of the work, or, in the absence of release, 50 years from the making of the work. Under Article 7(3) anonymous and pseudonymous works are assured a term of 50 years from first public availability of the work or 50 years from the death of the author, should his or her identity become known. Works of applied art and photographs are given a minimum term of protection of 25 years from the making of such works by virtue of Article 7(4).

These are, of course, minimum terms of protection. Article 7(6) provides that Berne members may grant protection for a longer period than provided for in Articles 7(1)–(4). Of particular importance is Article 7(8) concerning reconciliation between the laws of States whose terms of copyright differ as to specified works. The term of copyright in a work is determined by the law of the country where protection is sought; however, the term of protection need not exceed that established in the country of origin of the work. Countries of the Union, may, of course, choose by legislation to grant strict national treatment as to term, regardless of the period of protection established for a work in the country of origin. This so-called "rule of the shorter term" in Article 7(8) is an exception to the national treatment obligation.

Article 8 allows the author the exclusive right to translate the work or to authorize the translation of his or her work. The Berne Convention traditionally limited the obligation of States in the Union to respect translation rights fully, during the normal duration of copyright protection. Earlier texts of Berne authorized Union States to limit the period of authors' control over translations of their works to a period of 10 years from first publication. As now written, Berne has established a complete translation right, normally effective during the full term of copyright in a work, life plus 50 years post mortem.

Article 9 gives the author of a literary and artistic work the exclusive right of authorizing the reproduction of the work, in any manner or form. It should be noted here that the Convention does not establish the exclusive right of the author to control the public distribution of copies of his or her work. It is considered by many States that the right of the author to first publish his or her work was an aspect of moral rights; and, further, effective control over the right to distribute copies to the public was assured through the establishment of the right of reproduction in Article 9.

Article 9 (2) and (3) permit countries of the Union to make exceptions to the exclusive right of reproduction "in certain special cases", so long as an exception does not "conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author." This general formulation of the power to exempt incidental or commercially insignificant uses of works from the right of reproduction leaves States with a considerable degree of discretion in connection with "fair uses" of copyrighted materials and similar non-infringing reproductions of protected works. Exceptions to the reproduction right may relate to sound or visual recordings as well as the traditional reprographic reproduction of printed materials.

The various subsections of Article 10 concern the free use of copyrighted works in a variety of contexts, some of which are quite familar to United States law and practice. Thus, Article 10(1) permits quotations from published works so long as it is "compatible with fair practice" and justified by the purpose of the quote.

Article 10(2) concerns the utilization of copyrighted works in teaching activities. It provides that national legislation and special agreements among Union countries may determine the terms under which literary and artistic works may be used for teaching purposes. Such uses are, again, subject to the limitations of "fair

practice" and justifiable given the purpose in a teaching context. These exceptions to copyright extend to the utilization of works in publications, broadcasts or sound or visual recordings. The Convention requires, however, that uses of works under the formula of Article 10(2) require crediting the source of the material and the name of the author if it appears on the copy of the work utilized.

Article 10bis establishes special exceptions in connection with the use of protected works in newspapers or broadcasts and in the reporting of current events, generally. Article 10bis(1) allows reproduction by the press—electronic or otherwise—of "articles published in newspapers or periodicals on current economic, political or religious topics, and of broadcast works of the same character". The Convention provides, however, that such an exception can be established only with respect to works where the right to such reproduction, broadcasting or other communication thereof "is not expressly reserved."

Article 10bis(2) permits legislative exceptions to the incidental reproduction of protected works during the course of coverage of current events or other newsworthy activities.

Article 11, 11bis and 11ter concern important contemporary rights under copyright: public performance, recitations and broadcasting activities. Although quite detailed, the provisions of these articles appear to reflect the basic elements of copyright law common to industrialized countries including the United States. Thus, Article 11(1) provides that authors of dramatic, dramatico-musical and musical works have the exclusive right to control the public performance of their works by any means or process and the communication to the public of performances of their works. These rights extend to works in their original or translated forms.

The rights of public performance provided for in Article 11 extend to all sorts of performances with the exception of broadcasting. Thus, the performance of a work in live concert, in a public place by means of phonorecords, or a controlled transmission of a performance to a paying audience, would come within the scope of the exclusive rights established under Article 11. This is of importance in view of the fact that the Convention does not appear to authorize specific, permissible, limitations on the right of authors over these sorts of public performances, but clearly does so with respect to performances through broadcasting.

Article 11bis(1) deals with the right of authorizing the broadcasting of a work, the communication to the public of broadcasts by wire or rebroadcasting "when this communication is made by an organization other than the original one", or the communication of broadcasts to the public by loudspeaker.

Article 11bis(2) authorizes national legislation to determine "the conditions under which the rights" broadcasting, rebroadcasting and the public communication of broadcasts in Article 11bis(1) may be exercised. In the absence of agreement among the parties (and without prejudice to moral rights), equitable remuneration may be set by a "competent authority" of the State.

Article 11bis(3) concerns so-called "ephemeral recordings", the subject of Section 112 of the United States Copyright Law. This provision of Berne allows States to enact legislation permitting authorized broadcasters of a work to make ephemeral recordings of

works for the purpose of carrying out their own broadcasting activities.

Finally, Article 11ter establishes the right of the author of a literary work to authorize the public recitation of his or her work "by any means or process" and to authorize any communication to the public of the recitation of the work. These rights extend to literary works in their original form or in translation.

Article 12 of the Convention concerns so-called derivative works; that is, independently copyrightable transformations or adaptations of pre-existing works, such as the making of a novel into a film, or the arrangement of a piece of music for a particular instrument or group of instruments. Translations of works, dealt with as a separate activity and work are, in fact, a form of derivative work. This Article establishes the rule that authors enjoy the exclusive right to authorize the creation of derivative works based upon their copyrighted original. (Article 2(3) of the Convention established the principle that adaptations are protectable independently from the original works upon which they are based.)

Article 13 allows member countries to limit the exclusive right to contract the further recording of musical works after the first authorized recording and distribution of copies of such recordings. Essentially, this Article permits the compulsory licensing of the right to make sound recordings of protected musical compositions in much the same fashion as has long been provided for in United States Copyright Law.

Article 13(3) reinforces the territorial basis of Article 13 compulsory licensing by requiring Union States to establish provisions for the seizure of recordings produced in one country under a compulsory license and imported into another country without the permission of the concerned parties.

Article 14 sets out special rules governing rights and copyright owneship in cinematographic works. These provisions are of particular importance to the United States film industry. They were included in the Berne Convention at the Stockholm Revision Conference (1967) and have as their aim the harmonious reconciliation of the laws of Berne States which have important differences in approaching the question of authorship, ownership of rights and their exercise in the film area.

Article 14(1) sets down the right of authors of literary and artistic works to authorize the making of their works into films and their reproduction in film form, as well as to authorize the distribution of such films. Further, authors of literary and artistic works are accorded the right to control the public performance and communication to the public by wire of their works which are reproduced or adapted to film.

Article 14(2) provides that the author of an original work made into a film retains control over the further adaptation of his or her work from such an authorized film. Essentially, this means that when a novel is made into a film, a party who wishes to make the film into a musical version will require authorization from the novelist and, in accordance with Article 14bis(1), the filmmaker.

Article 14(3) provides that the compulsory license for the use of musical works in sound recordings, established in Article 13(1), is not applicable to films.

Article 14bis deals with the rights of artistic contributors to films. Article 14bis(1) begins by affirming the copyrightability of films as independent works, apart from the original work upon which such film may have been based. Article 14bis(2) provides that ownership of copyright in a film is a matter for the legislation of the country where protection is sought. Succeeding articles create a system of limited presumptions, modifiable by express contract, under which the "authors who have brought contributions to the making of the work" may be held to have consented by their participation in the making of the film to the reproduction, distribution, public performance, communication to the public by various means, subtitling or dubbing of the film embodying their various contributions. States where protection is sought for films may, however, require that the undertakings of contributors to films be in writing for such a presumption to apply. Finally, if such presumptions are to apply to the contributions to a film made by the principal director, scenarist or composer of music works created for the film, national legislation must expressly so provide.

Article 14ter of the Convention concerns a realm of copyright known as the "droit de suite". This system of law concerns original works of art and original manuscripts of writers and composers. It permits the authors of such material embodiments of their creativity to enjoy the enhanced value of unique copies of their works which accure with time and subsequent sales and resales. The most classic example of the application of "droit de suite" is the case of the fine art painting, sold for little at first, but acquiring considerable value as the reputation of the artist increases over time. "Droit de suite" would permit the creator, or after his or her death, such persons authorized by legislation, to "enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work." The Convention does not mandate that "droit de suite" be established in countries of the Union; it regulates, instead, the application of the system among countries of the Union which have estalished the system. In general, "droit de suite" may be claimed for works originating in a country of the Union only in such countries which have the system in their copyright laws and, further, only where the country of origin of such works also recognizes "droit de suite". In short, the benefits depend upon reciprocity.

Article 15 of the Convention deals with presumptions as to the authorship of works. In general, copyright enforcement actions may be brought by the author of a work and Article 15(1) provides that, in the absence of proof to the contrary, the person whose name appears in the normal fashion on the work shall be presumed to be the author and entitled to institute infringement proceedings in Union countries. This rule is extended to the persons or corporate bodies whose name appears on films, "in the usual manner." Article 15(3) authorizes the publisher of an anonymous or pseudonymous work to represent the author and enforce his or her rights. Finally, Article 15(4) authorizes States to designate authorities to protect and enforce in other States party to the Convention the rights of authors of unpublished works where the identity of the author is unknown but "there is every ground to presume that he is a national of a country of the Union".

Article 16 allows the author (or his successor in title) to take steps to seize infringing copies of his work. Each country may choose its own conditions, and the provision only applies if the work in question is protected in the country concerned.

Article 17 provides that the provisions of the Convention cannot affect in any way the right of governments of each State party "to permit, to control or to prohibit, by legislation or regulation, the circulation, presentation, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right."

Article 18(2) deals with the way in which the Convention applies to works already in existence when their country of origin first joins the Union. There is no obligation to protect works which, when their country of origin first becomes a Union country, are already in the public domain there. If, in the country where protection is claimed, a work was once protected but that protection has lapsed because its term has come to an end, there is no obligation to protect it anew.

Article 19 states that the minimum rights prescribed by the Convention form the basis of the Union but if, under the national laws of member countries, Convention nationals and their successors in title can claim better copyright treatment, nothing stops their doing so.

Article 20 deals with special agreements between the member countries such as bilateral treaties which go further in protecting authors than the Convention itself. It makes clear that there is nothing the Convention which prevents the continuation of such treaties.

Article 21 introduces the Appendix containing special provisions for developing countries.

Articles 22 to 26 are administrative clauses that were added to the Berne Convention at the Stockholm Conference in 1967. They relate to such matters as the administrative bodies of the Berne Union (Assembly and the Executive Committee), the Secretariat called the International Bureau, finances, and the manner of amending Articles 22 to 26.

Article 27 relates to the revision of all other articles (excepting Articles 22 to 26) of the Convention and provides that such revision shall be by unanimity.

Article 28 concerns the acceptance and entry into force of the Paris Act (1971) of the Berne Convention by Berne Union countries (i.e. member States).

Article 29 deals with accession and entry into force for non-member States of the Berne Convention.

Article 29bis concerns a technical point as to the relationship between the Paris Act (1971) of the Berne Convention and the Convention Establishing the World Intellectual Property Organization (1967).

Article 30 regulates reservations to the Convention by newly adhering States.

Article 31 sets out the conditions under which the Berne Convention can be applied to territories whose external relations are the responsibility of another country.

Article 32 regulates the relations between member countries of the Berne Convention bound by different texts of the Convention.

Article 33(1) provides that any dispute between two or more member countries over the interpretation or application of the Convention, not settled by negotiation, may, by any one of the countries concerned be brought before the International Court of Justice. However, Article 33(2) permits a country to declare, at the time it accedes to the Convention, that it will not be bound by Article 33(1).

Article 34 provides that no country may ratify or accede to any Act prior to the Paris Act (1971) once the substantive provisions of this Act entered into force (i.e. October 10, 1974).

Article 35 states that the Convention remains in force indefinitely and that a country may not denounce the Convention earlier than five years from the date of its adherence.

Article 36 states explicitly that a member State must adopt the measures necessary to ensure the application of the Convention and that when a country becomes bound by the Convention, it must be in a position under its domestic law to give effect to the various provisions of the Convention.

Article 37 contains clauses on such matters as authentic texts of the Convention (English and French), official texts of the Convention, and notifications of ratification or accession to the Director General of WIPO.

Article 38 pertains to transitional provisions which provided for a changeover from the earlier United International Bureau for the Protection of Intellectual Property to the new World Intellectual Property Organization which came into being in April 1970. This Article would have no effect on the United States upon adherence to the Berne Convention.

The Appendix to the Convention, made up of six articles, allows Union countries classified as developing countries, more latitude regarding the rights of translation and of reproduction than is normally permitted by the Convention proper.

A developing country may provide for a regime of non-exclusive, non-assignable compulsory licenses carrying an obligation to make fair payments to the copyright owner, to translate and/or reproduce works protected by the Convention, exclusively for systematic instructional activities (or in some cases for teaching, scholarship or research).

The copyright owner enjoys a period in which to exercise his exclusive rights. If he does so, no compulsory license can be granted in the country in which he has exercised it for the use in question. If a license is granted, it covers only the country in question and export of copies made under it is forbidden.

The payment to be made by the compulsory licensee must be consistent with standards of royalties normally operating on licenses freely negotiated between persons in the two countries concerned and must be transmissible to the copyright owner.

United States adherence to the Convention will require some adjustments to U.S. law to make it compatible, although the 1976 revision to the United States Copyright Law removed some of the important problems (e.g. term of protection). Among the areas requiring amendment are those dealing with jukebox licensing, the do-

mestic manufacturing clause, and notice and registration requirements.

Even if the Senate gives its advice and consent to accession, prior to enactment of the implementing legislation, the instrument of accession will not be deposited with the World Intellectual Property Organization until such legislation has been enacted.

United States adherence to the Convention is supported by other interested agencies including the Copyright Office, the Patent and Trademark Office and the Office of the U.S. Trade Representative.

I recommend that you forward this Convention to the Senate for early advice and consent to accession.

Respectfully submitted,

George P. Shultz.

Berne Convention for the Protection of Literary and Artistic Works

of September 9, 1886,
completed at PARIS on May 4, 1896, revised at BERLIN on November 13, 1908, completed at BERNE on March 20, 1914, and revised at ROME on June 2, 1928, at BRUSSELS on June 26, 1948,
at STOCKHOLM on July 14, 1967,
and at PARIS on July 24, 1971

The countries of the Union, being equally animated by the desire to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works,

Recognizing the importance of the work of the Revision Conference held at Stockholm in 1967,

Have resolved to revise the Act adopted by the Stockholm Conference, while maintaining without change Articles 1 to 20 and 22 to 26 of that Act.

Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

Article 1

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

Article 2

(1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are

assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

(5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7(4) of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.

(8) The protection of this Convention shall not apply to news of the day or to miscellaneous facts having the character of mere items of press information.

Article 2[bis]

(1) It shall be a matter for legislation in the countries of the Union to exclude, wholly or in part, from the protection provided by the preceding Article political speeches and speeches delivered in the course of legal proceedings.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which

lectures, addresses and other works of the same nature which are delivered in public may be reproduced by the press, broadcast, communicated to the public by wire and made the subject of public communication as envisaged in Article 11bis(1) of this Convention, when such use is justified by the informatory purpose.

(3) Nevertheless, the author shall enjoy the exclusive right of making a collection of his works mentioned in the preceding paragraphs.

Article 3

(1) The protection of this Convention shall apply to:

(a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;

(b) authors who are not nationals of one of the countries of the Union, for their works first published in one of those countries, or simultaneously in a country outside the Union and in a country of the Union.

(2) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purposes of this Convention, be assimilated to nationals of that country.

(3) The expression "published works" means works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. The performance of a dramatic, dramatico-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

(4) A work shall be considered as having been published simultaneously in several countries if it has been published in two or more countries within thirty days of its first publication.

Article 4

The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to:

(a) authors of cinematographic works the maker of which has his headquarters or habitual residence in one of the countries of the Union;

(b) authors of works of architecture erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.

Article 5

(1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.

(2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed.

(3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors.

(4) The country of origin shall be considered to be:

(a) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country whose legislation grants the shortest term of protection;

(b) in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country;

(c) in the case of unpublished works or of works first published in a country outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that:

(i) when these are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country, and

(ii) when these are works of architecture erected in a country of the Union or other artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

Article 6

(1) Where any country outside the Union fails to protect in an adequate manner the works of authors who are nationals of one of the countries of the Union, the latter country may

restrict the protection given to the works of authors who are, at the date of the first publication thereof, nationals of the other country and are not habitually resident in one of the countries of the Union. If the country of first publication avails itself of this right, the other countries of the Union shall not be required to grant to works thus subjected to special treatment a wider protection than that granted to them in the country of first publication.

(2) No restrictions introduced by virtue of the preceding paragraph shall affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put into force.

(3) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the Director General of the World Intellectual Property Organization (hereinafter designated as " the Director General ") by a written declaration specifying the countries in regard to which protection is restricted, and the restrictions to which rights of authors who are nationals of those countries are subjected. The Director General shall immediately communicate this declaration to all the countries of the Union.

Article 6bis

(1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

(2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation, at the moment of their ratification of or accession to this Act, does not provide for the protection after the death of the author of all the rights set out in the preceding paragraph may provide that some of these rights may, after his death, cease to be maintained.

(3) The means of redress for safeguarding the rights granted by this Article shall be governed by the legislation of the country where protection is claimed.

Article 7

(1) The term of protection granted by this Convention shall be the life of the author and fifty years after his death.

(2) However, in the case of cinematographic works, the countries of the Union may provide that the term of protec-

tion shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making.

(3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that provided in paragraph (1). If the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.

(4) It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied art in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.

(5) The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3) and (4) shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin on the first of January of the year following the death or such event.

(6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs.

(7) Those countries of the Union bound by the Rome Act of this Convention which grant, in their national legislation in force at the time of signature of the present Act, shorter terms of protection than those provided for in the preceding paragraphs shall have the right to maintain such terms when ratifying or acceding to the present Act.

(8) In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

Article 7bis

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

Article 8

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

Article 9

(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

(2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

(3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

Article 10

(1) It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

(2) It shall be a matter for legislation in the countries of the Union, and for special agreements existing or to be concluded between them, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice.

(3) Where use is made of works in accordance with the preceding paragraphs of this Article, mention shall be made of the source, and of the name of the author if it appears thereon.

Article 10*bis*

(1) It shall be a matter for legislation in the countries of the Union to permit the reproduction by the press, the broadcasting or the communication to the public by wire of articles published in newspapers or periodicals on current economic, political or religious topics, and of broadcast works of the same character, in cases in which the reproduction, broadcasting or such communication thereof is not expressly reserved. Nevertheless, the source must always be clearly indicated; the legal consequences of a breach of this obligation

shall be determined by the legislation of the country where protection is claimed.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which, for the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire, literary or artistic works seen or heard in the course of the event may, to the extent justified by the informatory purpose, be reproduced and made available to the public.

Article 11

(1) Authors of dramatic, dramatico-musical and musical works shall enjoy the exclusive right of authorizing:

(i) the public performance of their works, including such public performance by any means or process;

(ii) any communication to the public of the performance of their works.

(2) Authors of dramatic or dramatico-musical works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 11bis

(1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing:

(i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

(ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

(iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work.

(2) It shall be a matter for legislation in the countries of the Union to determine the conditions under which the rights mentioned in the preceding paragraph may be exercised, but these conditions shall apply only in the countries where they have been prescribed. They shall not in any circumstances be prejudicial to the moral rights of the author, nor to his right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) In the absence of any contrary stipulation, permission granted in accordance with paragraph (1) of this Article shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast. It shall, however, be a matter for legislation in the countries of the Union

to determine the regulations for ephemeral recordings made by a broadcasting organization by means of its own facilities and used for its own broadcasts. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by such legislation.

Article 11ter

(1) Authors of literary works shall enjoy the exclusive right of authorizing:

(i) the public recitation of their works, including such public recitation by any means or process;

(ii) any communication to the public of the recitation of their works.

(2) Authors of literary works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 12

Authors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works.

Article 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of any words, the recording of which together with the musical work has already been authorized by the latter, to authorize the sound recording of that musical work, together with such words, if any; but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the rights of these authors to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) Recordings of musical works made in a country of the Union in accordance with Article 13(3) of the Conventions signed at Rome on June 2, 1928, and at Brussels on June 26, 1948, may be reproduced in that country without the permission of the author of the musical work until a date two years after that country becomes bound by this Act.

(3) Recordings made in accordance with paragraphs (1) and (2) of this Article and imported without permission from the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure.

Article 14

(1) Authors of literary or artistic works shall have the exclusive right of authorizing:

(i) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;

(ii) the public performance and communication to the public by wire of the works thus adapted or reproduced.

(2) The adaptation into any other artistic form of a cinematographic production derived from literary or artistic works shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the authors of the original works.

(3) The provisions of Article 13(1) shall not apply.

Article 14bis

(1) Without prejudice to the copyright in any work which may have been adapted or reproduced, a cinematographic work shall be protected as an original work. The owner of copyright in a cinematographic work shall enjoy the same rights as the author of an original work, including the rights referred to in the preceding Article.

(2) *(a)* Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.

(b) However, in the countries of the Union which, by legislation, include among the owners of copyright in a cinematographic work authors who have brought contributions to the making of the work, such authors, if they have undertaken to bring such contributions, may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public, or to the subtitling or dubbing of texts, of the work.

(c) The question whether or not the form of the undertaking referred to above should, for the application of the preceding subparagraph *(b)*, be in a written agreement or a written act of the same effect shall be a matter for the legislation of the country where the maker of the cinematographic work has his headquarters or habitual residence. However, it shall be a matter for the legislation of the country of the Union where protection is claimed to provide that the said undertaking shall be in a written agreement or a written act of the same effect. The countries whose legislation so provides shall notify the Director General by means of a written declaration, which will be immediately communicated by him to all the other countries of the Union.

(d) By "contrary or special stipulation" is meant any restrictive condition which is relevant to the aforesaid undertaking.

(3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)*(b)* above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work, or to the principal director thereof. However, those countries of the Union whose legislation does not contain rules providing for the application of the said paragraph (2)*(b)* to such director shall notify the Director General by means of a written declaration, which will be immediately communicated by him to all the other countries of the Union.

Article 14*ter*

(1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.

(3) The procedure for collection and the amounts shall be matters for determination by national legislation.

Article 15

(1) In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to institute infringement proceedings in the countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity.

(2) The person or body corporate whose name appears on a cinematographic work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the maker of the said work.

(3) In the case of anonymous and pseudonymous works, other than those referred to in paragraph (1) above, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be deemed to represent the author, and in this capacity he shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall cease to apply when the author reveals his identity and establishes his claim to authorship of the work.

(4) *(a)* In the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, it shall be a matter for legislation in that country to designate the competent authority which shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union.

(b) Countries of the Union which make such designation under the terms of this provision shall notify the Director General by means of a written declaration giving full information concerning the authority thus designated. The Director General shall at once communicate this declaration to all other countries of the Union.

Article 16

(1) Infringing copies of a work shall be liable to seizure in any country of the Union where the work enjoys legal protection.

(2) The provisions of the preceding paragraph shall also apply to reproductions coming from a country where the work is not protected, or has ceased to be protected.

(3) The seizure shall take place in accordance with the legislation of each country.

Article 17

The provisions of this Convention cannot in any way affect the right of the Government of each country of the Union to permit, to control, or to prohibit, by legislation or regulation, the circulation, presentation, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

Article 18

(1) This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection.

(2) If, however, through the expiry of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew.

(3) The application of this principle shall be subject to any provisions contained in special conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in so far as it is concerned, the conditions of application of this principle.

(4) The preceding provisions shall also apply in the case of new accessions to the Union and to cases in which protection is extended by the application of Article 7 or by the abandonment of reservations.

Article 19

The provisions of this Convention shall not preclude the making of a claim to the benefit of any greater protection which may be granted by legislation in a country of the Union.

Article 20

The Governments of the countries of the Union reserve the right to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing agreements which satisfy these conditions shall remain applicable.

Article 21

(1) Special provisions regarding developing countries are included in the Appendix.

(2) Subject to the provisions of Article 28(1)*(b)*, the Appendix forms an integral part of this Act.

Article 22

(1) *(a)* The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 22 to 26.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) *(a)* The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;

(ii) give directions concerning the preparation for conferences of revision to the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention Establishing the World Intellectual Property Organization (hereinafter designated as "the Organization"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 22 to 26;

(iii) review and approve the reports and activities of the Director General of the Organization concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(iv) elect the members of the Executive Committee of the Assembly;

(v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee;

(vi) determine the program and adopt the triennial budget * of the Union, and approve its final accounts;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees of experts and working groups as may be necessary for the work of the Union;

(ix) determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) adopt amendments to Articles 22 to 26;

(xi) take any other appropriate action designed to further the objectives of the Union;

(xii) exercise such other functions as are appropriate under this Convention;

(xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) *(a)* Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph *(b)*, if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the

* By amendment adopted in 1979(entered into force November 19, 1984), Art. 22 (2) (a) (vi), "triennial" is replaced by "biennial".

quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Union not members of the Assembly shall be admitted to its meetings as observers.

(4) *(a)* The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization. *

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(5) The Assembly shall adopt its own rules of procedure.

Article 23

(1) The Assembly shall have an Executive Committee.

(2) *(a)* The Executive Committee shall consist of countries elected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 25(7)*(b)*, have an *ex officio* seat on the Committee.

(b) The Government of each country member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements which might be established in relation with the Union to be among the countries constituting the Executive Committee.

* By amendment adopted in 1979(entered into force November 19, 1984), Art. 22 (4) (a), "third" is replaced by "second".

(5) *(a)* Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but not more than two-thirds of them.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6) *(a)* The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly respecting the draft program and triennial budget of the Union prepared by the Director General; *

(iii) approve, within the limits of the program and the triennial budget, the specific yearly budgets and programs prepared by the Director General; *

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly, take all necessary measures to ensure the execution of the program of the Union by the Director General;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7) *(a)* The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(8) *(a)* Each country member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one country only.

* By amendments adopted in 1979 (entered into force November 19, 1984, Art. 23(6) (a) (ii), "triennial" is replaced by "biennial" and Art. 23 (6) (a), item (iii) is deleted.

(9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.

(10) The Executive Committee shall adopt its own rules of procedure.

Article 24

(1) *(a)* The administrative tasks with respect to the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Industrial Property.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of copyright. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection of copyright.

(3) The International Bureau shall publish a monthly periodical.

(4) The International Bureau shall, on request, furnish information to any country of the Union on matters concerning the protection of copyright.

(5) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of copyright.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be *ex officio* secretary of these bodies.

(7) *(a)* The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision of the provisions of the Convention other than Articles 22 to 26.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

Article 25

(1) *(a)* The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Union shall be financed from the following sources:

(i) contributions of the countries of the Union;

(ii) fees and charges due for services performed by the International Bureau in relation to the Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4) *(a)* For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I	25
Class II	20
Class III	15
Class IV	10
Class V	5
Class VI	3
Class VII	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce it to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the annual budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(d) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions shall have no vote in any of the organs of the Union of which it is a member if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(f) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly and the Executive Committee, by the Director General.

(6) *(a)* The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Union. If the fund becomes insufficient, an increase shall be decided by the Assembly.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) *(a)* In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization. As long as it remains under the obligation to grant advances, such country shall have an *ex officio* seat on the Executive Committee.

(b) The country referred to in subparagraph *(a)* and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 26

(1) Proposals for the amendment of Articles 22, 23, 24, 25, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 22, and of the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Union shall bind only those countries which have notified their acceptance of such amendment.

Article 27

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For this purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Subject to the provisions of Article 26 which apply to the amendment of Articles 22 to 26, any revision of this Act, including the Appendix, shall require the unanimity of the votes cast.

Article 28

(1) *(a)* Any country of the Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it. Instruments of ratification or accession shall be deposited with the Director General.

(b) Any country of the Union may declare in its instrument of ratification or accession that its ratification or accession shall not apply to Articles 1 to 21 and the Appendix, provided that, if such country has previously made a declaration under Article VI(1) of the Appendix, then it may declare in the said instrument only that its ratification or accession shall not apply to Articles 1 to 20.

(c) Any country of the Union which, in accordance with subparagraph *(b)*, has excluded provisions therein referred to from the effects of its ratification or accession may at any later time declare that it extends the effects of its ratification or accession to those provisions. Such declaration shall be deposited with the Director General.

(2) *(a)* Articles 1 to 21 and the Appendix shall enter into force three months after both of the following two conditions are fulfilled:

(i) at least five countries of the Union have ratified or acceded to this Act without making a declaration under paragraph (1)*(b)*,

(ii) France, Spain, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, have become bound by the Universal Copyright Convention as revised at Paris on July 24, 1971.

(b) The entry into force referred to in subparagraph *(a)* shall apply to those countries of the Union which, at least three months before the said entry into force, have deposited instruments of ratification or accession not containing a declaration under paragraph (1)*(b)*.

(c) With respect to any country of the Union not covered by subparagraph *(b)* and which ratifies or accedes to this Act without making a declaration under paragraph (1)*(b)*, Articles 1 to 21 and the Appendix shall enter into force three months after the date on which the Director General has notified the deposit of the relevant instrument of ratification or accession, unless a subsequent date has been indicated in the instrument deposited. In the latter case, Articles 1 to 21 and the Appendix shall enter into force with respect to that country on the date thus indicated.

(d) The provisions of subparagraphs *(a)* to *(c)* do not affect the application of Article VI of the Appendix.

(3) With respect to any country of the Union which ratifies or accedes to this Act with or without a declaration made under paragraph (1)*(b)*, Articles 22 to 38 shall enter into force three months after the date on which the Director General has notified the deposit of the relevant instrument of ratification or accession, unless a subsequent date has been indicated in the instrument deposited. In the latter case, Articles 22 to 38 shall enter into force with respect to that country on the date thus indicated.

Article 29

(1) Any country outside the Union may accede to this Act and thereby become party to this Convention and a member of the Union. Instruments of accession shall be deposited with the Director General.

(2) *(a)* Subject to subparagraph *(b)*, this Convention shall enter into force with respect to any country outside the Union three months after the date on which the Director General has notified the deposit of its instrument of accession, unless a subsequent date has been indicated in the instrument deposited. In the latter case, this Convention shall enter into force with respect to that country on the date thus indicated.

(b) If the entry into force according to subparagraph *(a)* precedes the entry into force of Articles 1 to 21 and the Appendix according to Article 28(2)*(a)*, the said country shall, in the meantime, be bound, instead of by Articles 1 to 21 and the Appendix, by Articles 1 to 20 of the Brussels Act of this Convention.

Article 29bis

Ratification of or accession to this Act by any country not bound by Articles 22 to 38 of the Stockholm Act of this Convention shall, for the sole purposes of Article 14(2) of the Convention establishing the Organization, amount to ratification of or accession to the said Stockholm Act with the limitation set forth in Article 28(1)*(b)*(i) thereof.

Article 30

(1) Subject to the exceptions permitted by paragraph (2) of this Article, by Article 28(1)*(b)*, by Article 33(2), and by the Appendix, ratification or accession shall automatically entail acceptance of all the provisions and admission to all the advantages of this Convention.

(2) *(a)* Any country of the Union ratifying or acceding to this Act may, subject to Article V(2) of the Appendix, retain the benefit of the reservations it has previously formulated on condition that it makes a declaration to that effect at the time of the deposit of its instrument of ratification or accession.

(b) Any country outside the Union may declare, in acceding to this Convention and subject to Article V(2) of the Appendix, that it intends to substitute, temporarily at least, for Article 8 of this Act concerning the right of translation, the provisions of Article 5 of the Union Convention of 1886, as completed at Paris in 1896, on the clear understanding that the said provisions are applicable only to translations into a language in general use in the said country. Subject to Article I(6)*(b)* of the Appendix, any country has the right to apply,

in relation to the right of translation of works whose country of origin is a country availing itself of such a reservation, a protection which is equivalent to the protection granted by the latter country.

(c) Any country may withdraw such reservations at any time by notification addressed to the Director General.

Article 31

(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification at any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3) *(a)* Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in which it was included, and any notification given under that paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General.

(4) This Article shall in no way be understood as implying the recognition or tacit acceptance by a country of the Union of the factual situation concerning a territory to which this Convention is made applicable by another country of the Union by virtue of a declaration under paragraph (1).

Article 32

(1) This Act shall, as regards relations between the countries of the Union, and to the extent that it applies, replace the Berne Convention of September 9, 1886, and the subsequent Acts of revision. The Acts previously in force shall continue to be applicable, in their entirety or to the extent that this Act does not replace them by virtue of the preceding sentence, in relations with countries of the Union which do not ratify or accede to this Act.

(2) Countries outside the Union which become party to this Act shall, subject to paragraph (3), apply it with respect to any country of the Union not bound by this Act or which, although bound by this Act, has made a declaration pursuant to Article 28(1)*(b)*. Such countries recognize that the said country of the Union, in its relations with them:

(i) may apply the provisions of the most recent Act by which it is bound, and

(ii) subject to Article I(6) of the Appendix, has the right to adapt the protection to the level provided for by this Act.

(3) Any country which has availed itself of any of the faculties provided for in the Appendix may apply the provisions of the Appendix relating to the faculty or faculties of which it has availed itself in its relations with any other country of the Union which is not bound by this Act, provided that the latter country has accepted the application of the said provisions.

Article 33

(1) Any dispute between two or more countries of the Union concerning the interpretation or application of this Convention, not settled by negotiation, may, by any one of the countries concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other countries of the Union.

(2) Each country may, at the time it signs this Act or deposits its instrument of ratification or accession, declare that it does not consider itself bound by the provisions of paragraph (1). With regard to any dispute between such country and any other country of the Union, the provisions of paragraph (1) shall not apply.

(3) Any country having made a declaration in accordance with the provisions of paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

Article 34

(1) Subject to Article 29[bis], no country may ratify or accede to earlier Acts of this Convention once Articles 1 to 21 and the Appendix have entered into force.

(2) Once Articles 1 to 21 and the Appendix have entered into force, no country may make a declaration under Article 5 of the Protocol Regarding Developing Countries attached to the Stockholm Act.

Article 35

(1) This Convention shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall

affect only the country making it, the Convention remaining in full force and effect as regards the other countries of the Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Union.

Article 36

(1) Any country party to this Convention undertakes to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Convention.

(2) It is understood that, at the time a country becomes bound by this Convention, it will be in a position under its domestic law to give effect to the provisions of this Convention.

Article 37

(1) *(a)* This Act shall be signed in a single copy in the French and English languages and, subject to paragraph (2), shall be deposited with the Director General.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian, Portuguese and Spanish languages, and such other languages as the Assembly may designate.

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature until January 31, 1972. Until that date, the copy referred to in paragraph (1)*(a)* shall be deposited with the Government of the French Republic.

(3) The Director General shall certify and transmit two copies of the signed text of this Act to the Governments of all countries of the Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments or made pursuant to Articles 28(1)*(c)*, 30(2)*(a)* and *(b)*, and 33(2), entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Articles 30(2)*(c)*, 31(1) and (2), 33(3), and 38(1), as well as the Apendix.

Article 38

(1) Countries of the Union which have not ratified or acceded to this Act and which are not bound by Articles 22 to 26 of the Stockholm Act of this Convention may, until April 26, 1975, exercise, if they so desire, the rights provided under the said Articles as if they were bound by them. Any country desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the said date.

(2) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(3) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of the Union shall devolve on the International Bureau of the Organization.

APPENDIX

Article I

(1) Any country regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratifies or accedes to this Act, of which this Appendix forms an integral part, and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided for in this Act, may, by a notification deposited with the Director General at the time of depositing its instrument of ratification or accession or, subject to Article V(1)*(c)*, at any time thereafter, declare that it will avail itself of the faculty provided for in Article II, or of the faculty provided for in Article III, or of both of those faculties. It may, instead of availing itself of the faculty provided for in Article II, make a declaration according to Article V(1)*(a)*.

(2) *(a)* Any declaration under paragraph (1) notified before the expiration of the period of ten years from the entry into force of Articles 1 to 21 and this Appendix according to Article 28(2) shall be effective until the expiration of the said period. Any such declaration may be renewed in whole or in part for periods of ten years each by a notification deposited with the Director General not more than fifteen months and not less than three months before the expiration of the ten-year period then running.

(b) Any declaration under paragraph (1) notified after the expiration of the period of ten years from the entry into force of Articles 1 to 21 and this Appendix according to Article 28(2) shall be effective until the expiration of the ten-year period then running. Any such declaration may be renewed as provided for in the second sentence of subparagraph *(a)*.

(3) Any country of the Union which has ceased to be regarded as a developing country as referred to in paragraph (1) shall no longer be entitled to renew its declaration as provided in paragraph (2), and, whether or not it formally withdraws its declaration, such country shall be precluded from availing itself of the faculties referred to in paragraph (1) from the expiration of the ten-year period then running or from the expiration of a period of three years after it has ceased to be regarded as a developing country, whichever period expires later.

(4) Where, at the time when the declaration made under paragraph (1) or (2) ceases to be effective, there are copies in stock which were made under a license granted by virtue of this Appendix, such copies may continue to be distributed until their stock is exhausted.

(5) Any country which is bound by the provisions of this Act and which has deposited a declaration or a notification in accordance with Article 31(1) with respect to the application of this Act to a particular territory, the situation of which can be regarded as analogous to that of the countries referred to in paragraph (1), may, in respect of such territory, make the declaration referred to in paragraph (1) and the notification of renewal referred to in paragraph (2). As long as such declaration or notification remains in effect, the provisions of this Appendix shall be applicable to the territory in respect of which it was made.

(6) *(a)* The fact that a country avails itself of any of the faculties referred to in paragraph (1) does not permit another country to give less protection to works of which the country of origin is the former country than it is obliged to grant under Articles 1 to 20.

(b) The right to apply reciprocal treatment provided for in Article 30(2)*(b)*, second sentence, shall not, until the date on which the period applicable under Article I(3) expires, be exercised in respect of works the country of origin of which is a country which has made a declaration according to Article V(1)*(a)*.

Article II

(1) Any country which has declared that it will avail itself of the faculty provided for in this Article shall be entitled, so far as works published in printed or analogous

forms of reproduction are concerned, to substitute for the exclusive right of translation provided for in Article 8 a system of non-exclusive and non-transferable licenses, granted by the competent authority under the following conditions and subject to Article IV.

(2) *(a)* Subject to paragraph (3), if, after the expiration of a period of three years, or of any longer period determined by the national legislation of the said country, commencing on the date of the first publication of the work, a translation of such work has not been published in a language in general use in that country by the owner of the right of translation, or with his authorisation, any national of such country may obtain a license to make a translation of the work in the said language and publish the translation in printed or analogous forms of reproduction.

(b) A license under the conditions provided for in this Article may also be granted if all the editions of the translation published in the language concerned are out of print.

(3)*(a)* In the case of translations into a language which is not in general use in one or more developed countries which are members of the Union, a period of one year shall be substituted for the period of three years referred to in paragraph (2)*(a)*.

(b) Any country referred to in paragraph (1) may, with the unanimous agreement of the developed countries which are members of the Union and in which the same language is in general use, substitute, in the case of translations into that language, for the period of three years referred to in paragraph (2)*(a)* a shorter period as determined by such agreement but not less than one year. However, the provisions of the foregoing sentence shall not apply where the language in question is English, French or Spanish. The Director General shall be notified of any such agreement by the Governments which have concluded it.

(4) *(a)* No license obtainable after three years shall be granted under this Article until a further period of six months has elapsed, and no license obtainable after one year shall be granted under this Article until a further period of nine months has elapsed

(i) from the date on which the applicant complies with the requirements mentioned in Article IV(1), or

(ii) where the identity or the address of the owner of the right of translation is unknown, from the date on which the applicant sends, as provided for in Article IV(2), copies of his application submitted to the authority competent to grant the license.

(b) If, during the said period of six or nine months, a translation in the language in respect of which the application

was made is published by the owner of the right of translation or with his authorization, no license under this Article shall be granted.

(5) Any license under this Article shall be granted only for the purpose of teaching, scholarship or research.

(6) If a translation of a work is published by the owner of the right of translation or with his authorization at a price reasonably related to that normally charged in the country for comparable works, any license granted under this Article shall terminate if such translation is in the same language and with substantially the same content as the translation published under the license. Any copies already made before the license terminates may continue to be distributed until their stock is exhausted.

(7) For works which are composed mainly of illustrations, a license to make and publish a translation of the text and to reproduce and publish the illustrations may be granted only if the conditions of Article III are also fulfilled.

(8) No license shall be granted under this Article when the author has withdrawn from circulation all copies of his work.

(9) *(a)* A license to make a translation of a work which has been published in printed or analogous forms of reproduction may also be granted to any broadcasting organization having its headquarters in a country referred to in paragraph (1), upon an application made to the competent authority of that country by the said organization, provided that all of the following conditions are met:

(i) the translation is made from a copy made and acquired in accordance with the laws of the said country;

(ii) the translation is only for use in broadcasts intended exclusively for teaching or for the dissemination of the results of specialized technical or scientific research to experts in a particular profession;

(iii) the translation is used exclusively for the purposes referred to in condition (ii) through broadcasts made lawfully and intended for recipients on the territory of the said country, including broadcasts made through the medium of sound or visual recordings lawfully and exclusively made for the purpose of such broadcasts;

(iv) all uses made of the translation are without any commercial purpose.

(b) Sound or visual recordings of a translation which was made by a broadcasting organization under a license granted by virtue of this paragraph may, for the purposes and subject to the conditions referred to in subparagraph *(a)* and with the agreement of that organization, also be used

by any other broadcasting organization having its headquarters in the country whose competent authority granted the license in question.

(c) Provided that all of the criteria and conditions set out in subparagraph *(a)* are met, a license may also be granted to a broadcasting organization to translate any text incorporated in an audio-visual fixation where such fixation was itself prepared and published for the sole purpose of being used in connection with systematic instructional activities.

(d) Subject to subparagraphs *(a)* to *(c)*, the provisions of the preceding paragraphs shall apply to the grant and exercise of any license granted under this paragraph.

Article III

(1) Any country which has declared that it will avail itself of the faculty provided for in this Article shall be entitled to substitute for the exclusive right of reproduction provided for in Article 9 a system of non-exclusive and non-transferable licenses, granted by the competent authority under the following conditions and subject to Article IV.

(2) *(a)* If, in relation to a work to which this Article applies by virtue of paragraph (7), after the expiration of

(i) the relevant period specified in paragraph (3), commencing on the date of first publication of a particular edition of the work, or

(ii) any longer period determined by national legislation of the country referred to in paragraph (1), commencing on the same date,

copies of such edition have not been distributed in that country to the general public or in connection with systematic instructional activities, by the owner of the right of reproduction or with his authorization, at a price reasonably related to that normally charged in the country for comparable works, any national of such country may obtain a license to reproduce and publish such edition at that or a lower price for use in connection with systematic instructional activities.

(b) A license to reproduce and publish an edition which has been distributed as described in subparagraph *(a)* may also be granted under the conditions provided for in this Article if, after the expiration of the applicable period, no authorized copies of that edition have been on sale for a period of six months in the country concerned to the general public or in connection with systematic instructional activities at a price reasonably related to that normally charged in the country for comparable works.

(3) The period referred to in paragraph (2)*(a)*(i) shall be five years, except that

(i) for works of the natural and physical sciences, including mathematics, and of technology, the period shall be three years;

(ii) for works of fiction, poetry, drama and music, and for art books, the period shall be seven years.

(4) *(a)* No license obtainable after three years shall be granted under this Article until a period of six months has elapsed

(i) from the date on which the applicant complies with the requirements mentioned in Article IV(1), or

(ii) where the identity or the address of the owner of the right of reproduction is unknown, from the date on which the applicant sends, as provided for in Article IV(2), copies of his application submitted to the authority competent to grant the license.

(b) Where licenses are obtainable after other periods and Article IV(2) is applicable, no license shall be granted until a period of three months has elapsed from the date of the dispatch of the copies of the application.

(c) If, during the period of six or three months referred to in subparagraphs *(a)* and *(b)*, a distribution as described in paragraph (2)*(a)* has taken place, no license shall be granted under this Article.

(d) No license shall be granted if the author has withdrawn from circulation all copies of the edition for the reproduction and publication of which the license has been applied for.

(5) A license to reproduce and publish a translation of a work shall not be granted under this Article in the following cases:

(i) where the translation was not published by the owner of the right of translation or with his authorization, or

(ii) where the translation is not in a language in general use in the country in which the license is applied for.

(6) If copies of an edition of a work are distributed in the country referred to in paragraph (1) to the general public or in connection with systematic instructional activities, by the owner of the right of reproduction or with his authorization, at a price reasonably related to that normally charged in the country for comparable works, any license granted under this Article shall terminate if such edition is in the same language and with substantially the same content as the edition which was published under the said license. Any copies already made before the license terminates may continue to be distributed until their stock is exhausted.

(7) *(a)* Subject to subparagraph *(b)*, the works to which this Article applies shall be limited to works published in printed or analogous forms of reproduction.

(b) This Article shall also apply to the reproduction in audio-visual form of lawfully made audio-visual fixations including any protected works incorporated therein and to the translation of any incorporated text into a language in general use in the country in which the license is applied for, always provided that the audio-visual fixations in question were prepared and published for the sole purpose of being used in connection with systematic instructional activities.

Article IV

(1) A license under Article II or Article III may be granted only if the applicant, in accordance with the procedure of the country concerned, establishes either that he has requested, and has been denied, authorization by the owner of the right to make and publish the translation or to reproduce and publish the edition, as the case may be, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as making the request, the applicant shall inform any national or international information center referred to in paragraph (2).

(2) If the owner of the right cannot be found, the applicant for a license shall send, by registered airmail, copies of his application, submitted to the authority competent to grant the license, to the publisher whose name appears on the work and to any national or international information center which may have been designated, in a notification to that effect deposited with the Director General, by the Government of the country in which the publisher is believed to have his principal place of business.

(3) The name of the author shall be indicated on all copies of the translation or reproduction published under a license granted under Article II or Article III. The title of the work shall appear on all such copies. In the case of a translation, the original title of the work shall appear in any case on all the said copies.

(4) *(a)* No license granted under Article II or Article III shall extend to the export of copies, and any such license shall be valid only for publication of the translation or of the reproduction, as the case may be, in the territory of the country in which it has been applied for.

(b) For the purposes of subparagraph *(a)*, the notion of export shall include the sending of copies from any territory to the country which, in respect of that territory, has made a declaration under Article I(5).

(c) Where a governmental or other public entity of a country which has granted a license to make a translation under Article II into a language other than English, French or Spanish sends copies of a translation published under such

license to another country, such sending of copies shall not, for the purposes of subparagraph *(a)*, be considered to constitute export if all of the following conditions are met:

(i) the recipients are individuals who are nationals of the country whose competent authority has granted the license, or organizations grouping such individuals;

(ii) the copies are to be used only for the purpose of teaching, scholarship or research;

(iii) the sending of the copies and their subsequent distribution to recipients is without any commercial purpose; and

(iv) the country to which the copies have been sent has agreed with the country whose competent authority has granted the license to allow the receipt, or distribution, or both, and the Director General has been notified of the agreement by the Government of the country in which the license has been granted.

(5) All copies published under a license granted by virtue of Article II or Article III shall bear a notice in the appropriate language stating that the copies are available for distribution only in the country or territory to which the said license applies.

(6) *(a)* Due provision shall be made at the national level to ensure

(i) that the license provides, in favour of the owner of the right of translation or of reproduction, as the case may be, for just compensation that is consistent with standards of royalties normally operating on licenses freely negotiated between persons in the two countries concerned, and

(ii) payment and transmittal of the compensation: should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(b) Due provision shall be made by national legislation to ensure a correct translation of the work, or an accurate reproduction of the particular edition, as the case may be.

Article V

(1) *(a)* Any country entitled to make a declaration that it will avail itself of the faculty provided for in Article II may, instead, at the time of ratifying or acceding to this Act:

(i) if it is a country to which Article 30(2)*(a)* applies, make a declaration under that provision as far as the right of translation is concerned;

(ii) if it is a country to which Article 30(2)*(a)* does not apply, and even if it is not a country outside the Union, make a declaration as provided for in Article 30(2)*(b)*, first sentence.

(b) In the case of a country which ceases to be regarded as a developing country as referred to in Article I(1), a declaration made according to this paragraph shall be effective until the date on which the period applicable under Article I(3) expires.

(c) Any country which has made a declaration according to this paragraph may not subsequently avail itself of the faculty provided for in Article II even if it withdraws the said declaration.

(2) Subject to paragraph (3), any country which has availed itself of the faculty provided for in Article II may not subsequently make a declaration according to paragraph (1).

(3) Any country which has ceased to be regarded as a developing country as referred to in Article I(1) may, not later than two years prior to the expiration of the period applicable under Article I(3), make a declaration to the effect provided for in Article 30(2)*(b)*, first sentence, notwithstanding the fact that it is not a country outside the Union. Such declaration shall take effect at the date on which the period applicable under Article I(3) expires.

Article VI

(1) Any country of the Union may declare, as from the date of this Act, and at any time before becoming bound by Articles 1 to 21 and this Appendix:

(i) if it is a country which, were it bound by Articles 1 to 21 and this Appendix, would be entitled to avail itself of the faculties referred to in Article I(1), that it will apply the provisions of Article II or of Article III or of both to works whose country of origin is a country which, pursuant to (ii) below, admits the application of those Articles to such works, or which is bound by Articles 1 to 21 and this Appendix; such declaration may, instead of referring to Article II, refer to Article V;

(ii) that it admits the application of this Appendix to works of which it is the country of origin by countries which have made a declaration under (i) above or a notification under Article I.

(2) Any declaration made under paragraph (1) shall be in writing and shall be deposited with the Director General The declaration shall become effective from the date of its deposit.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet, ont signé le présent Acte.
FAIT à Paris, le 24 juillet 1971 *.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.
DONE at Paris on July 24, 1971 *.

POUR L'AFRIQUE DU SUD:
FOR SOUTH AFRICA:

POUR LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE:
FOR THE FEDERAL REPUBLIC OF GERMANY:
Rupprecht von Keller
Eugen Ulmer

POUR L'ARGENTINE:
FOR ARGENTINA:

* *Note*

Toutes les signatures ont été apposées le 24 juillet 1971, sauf si une autre date est indiquée.

All the signatures were affixed on July 24, 1971, unless otherwise indicated.

POUR L'AUSTRALIE:
FOR AUSTRALIA:

POUR L'AUTRICHE:
FOR AUSTRIA:

Dr. Ernst Lemberger
28 janvier 1972

POUR LA BELGIQUE:
FOR BELGIUM:

B^on Papéians de Morchoven
12 août 1971

POUR LE BRÉSIL:
FOR BRAZIL:

Everaldo Dayrell de Lima

POUR LA BULGARIE:
FOR BULGARIA:

POUR LE CAMEROUN:
FOR CAMEROON:

Ndongo

POUR LE CANADA:
FOR CANADA:

POUR CEYLAN:
FOR CEYLON:

P. M. D. Fernando

POUR LE CHILI:
FOR CHILE:

POUR CHYPRE:
FOR CYPRUS:

C. G. Tornaritis

POUR LE CONGO:
FOR THE CONGO:

POUR LA CÔTE D'IVOIRE:
FOR THE IVORY COAST:

B. Dadié

POUR LE DAHOMEY:
FOR DAHOMEY:

POUR LE DANEMARK:
FOR DENMARK:

W. Weincke

POUR L'ESPAGNE:
FOR SPAIN:

Emilio Garrigues

POUR LA FINLANDE:
FOR FINLAND:

Paavo Laitinen

25. 1. 72

POUR LA FRANCE:
FOR FRANCE:

Pierre Charpentier
A. Saint-Mleux

POUR LE GABON:
FOR GABON:

POUR LA GRÈCE:
FOR GREECE:

POUR LA HONGRIE:
FOR HUNGARY:

Timár István

POUR L'INDE:
FOR INDIA:

K. Chaudhuri

Ad referendum

I. Balakrishnan

POUR L'IRLANDE:
FOR IRELAND:

POUR L'ISLANDE:
FOR ICELAND:

POUR ISRAËL:
FOR ISRAEL:

Mayer Gabay

POUR L'ITALIE:
FOR ITALY:

P. Archi

POUR LE JAPON:
FOR JAPAN:

Yoshihiro Nakayama
25 janvier, 1972

POUR LE LIBAN:
FOR LEBANON:

Stétié

POUR LE LIECHTENSTEIN:
FOR LIECHTENSTEIN:

Gerliczy-Burian

POUR LE LUXEMBOURG:
FOR LUXEMBOURG:

Eug. Emringer

POUR MADAGASCAR:
FOR MADAGASCAR:

POUR LE MALI:
FOR MALI:

POUR MALTE:
FOR MALTA:

POUR LE MAROC:
FOR MOROCCO:

Zerrad

POUR LE MEXIQUE:
FOR MEXICO:

F. Cuevas C.

POUR MONACO:
FOR MONACO:

Falaise

POUR LE NIGER:
FOR NIGER:

POUR LA NORVÈGE:
FOR NORWAY:

le 28 décembre 1971
Hersleb Vogt

POUR LA NOUVELLE-ZÉLANDE:
FOR NEW ZEALAND:

POUR LE PAKISTAN:
FOR PAKISTAN:

POUR LES PAYS-BAS:
FOR THE NETHERLANDS:

W. L. Haardt
J. Verhœve

POUR LES PHILIPPINES:
FOR THE PHILIPPINES:

POUR LA POLOGNE:
FOR POLAND:

POUR LE PORTUGAL:
FOR PORTUGAL:

POUR LA RÉPUBLIQUE POPULAIRE DU CONGO:
FOR THE PEOPLE'S REPUBLIC OF THE CONGO:
E. Alihonou

POUR LA ROUMANIE:
FOR ROMANIA:
Avec la réserve et les déclarations communiquées par la Note Verbale de l'Ambassade de la République Socialiste de Roumanie n° 201 du 31 janvier 1972.
C. Flitan
le 31 janvier 1972

POUR LE ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD:
FOR THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND:

E. Armitage
William Wallace

POUR LE SAINT-SIÈGE:
FOR THE HOLY SEE:

E. Rovida

POUR LE SÉNÉGAL:
FOR SENEGAL:

Goundiam

POUR LA SUÈDE:
FOR SWEDEN:

Hans Danielus

POUR LA SUISSE:
FOR SWITZERLAND:

Pedrazzini

POUR LA TCHÉCOSLOVAQUIE:
FOR CZECHOSLOVAKIA:

POUR LA THAÏLANDE:
FOR THAILAND:

POUR LA TUNISIE:
FOR TUNISIA:

Rafik Saïd

POUR LA TURQUIE:
FOR TURKEY:

POUR L'URUGUAY:
FOR URUGUAY:

Rémolo Botto

4 octobre 1971

POUR LA YOUGOSLAVIE:
FOR YUGOSLAVIA:

A. Jelić

Je, soussigné, certifie que le texte qui précède est la copie conforme de l'Acte de Paris de la Convention de Berne.

I hereby certify that the foregoing text is a true copy of the Paris Act of the Berne Convention.

G. H. C. Bodenhausen

Directeur général
Organisation Mondiale
de la Propriété Intellectuelle
1er mars 1972

Director General
World Intellectual Property
Organization
March 1, 1972

99TH CONGRESS
2d Session

SENATE

TREATY DOC.
99-28

CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE ESPECIALLY AS WATERFOWL HABITAT, CONCLUDED AT RAMSAR, IRAN, FEBRUARY 2, 1971, WITH A PROTOCOL TO THE CONVENTION, CONCLUDED AT PARIS ON DECEMBER 3, 1982

JUNE 23, 1986.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

---

U.S. GOVERNMENT PRINTING OFFICE

71-118 O

WASHINGTON : 1986

S385-16

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *June 23, 1986.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on Wetlands of International Importance especially as Waterfowl Habitat, concluded at Ramsar, Iran, February 2, 1971, and a Protocol to the Convention, concluded at Paris of December 3, 1982. The report of the Department of State is also enclosed for the information of the Senate.

The Convention is the result of a broad international recognition of the economic, cultural, scientific, ecological, and recreational value of wetlands, coupled with rising concern over the progressive worldwide loss and degradation of these habitats and their dependent resources. The Convention provides a framework for promoting the conservation of wetlands through international cooperative and coordinated actions, consultations, and information exchange.

A primary obligation under the Convention is the designation by Contracting Parties of wetlands within their territory for inclusion in a "List of Wetlands of International Importance." If advice and consent to ratification is forthcoming, I intend to designate the four wetlands named in the Department of State report.

The Protocol to the Convention establishes the four language texts of the original Convention as equally authentic and provides a mechanism for amending the Convention.

International efforts directed toward wetlands conservation are vital to the preservation of United States migratory bird populations, which are affected by the loss of wetland habitats to the south. United States participation would complement domestic wetlands protection efforts and legislation; help stimulate Latin American countries, in particular, to cooperate in protecting the wintering habitat of birds that migrate to North America; and provide a framework for sharing U.S. wetlands technology and experience.

I recommend that the Senate consider this matter at an early date, and give its advice and consent to ratification of the Convention and Protocol.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, June 11, 1986.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmittal to the Senate for advice and consent to ratification, the Convention on Wetlands of International Importance especially as Waterfowl Habitat, concluded at Ramsar, Iran, February 2, 1971, with a Protocol to the Convention, concluded at Paris on December 3, 1982.

The Convention was signed subject to ratification by the United States Observer to the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Paris on September 13, 1985. There are now 39 Contracting Parties.

Although the United States participated in the negotiations which led to the adoption of the Convention, it deferred becoming a party because of opposition by conservationists who initially felt the Convention was too weak and by state authorities who feared U.S. participation would unduly expand federal authority. In practice, the Convention has been very useful in the designation and conservation of European wetlands. In light of this experience and the increasingly threatened status of wetlands worldwide, a wide range of conservation and state interests now consider that U.S. participation in the Convention would complement domestic wetlands protection and legislation, a major Administration objective; help stimulate Latin American countries to protect the wintering habitat of birds which migrate to North America; and provide a framework for sharing U.S. technology and expertise. There is broad bipartisan support for wetlands conservation in both Houses of Congress, and U.S. ratification of the Convention is perceived as a positive environmental initiative.

A principal provision of the Convention is Article 2, which specifies that each party shall designate at least one wetland area within its territory as a wetland of international importance at the time of either signature or ratification. It is proposed that the following wetlands located in the United States be designated for inclusion in the list:

1. Izembek National Wildlife Refuge/Izembek State Game Refuge in Alaska;
2. Edwin B. Forsythe National Wildlife Refuge in New Jersey;
3. Okefenokee National Wildlife Refuge in southeastern Georgia and northern Florida; and

4. Ash Meadows National Wildlife Refuge in Nevada.

Designation of these wetlands has been approved by the governor(s) of the state(s) in which each wetland is located. Each Contracting Party has the right to add to the list further wetlands situated within its territory.

Additional obligations of the Parties to the Convention are set forth in Articles 3, 4, 5 and 6 of the Convention. Article 3 requires that Contracting Parties formulate and implement their planning so as to promote the conservation of the designated wetlands and as far as possible the wise use of wetlands in their territory.

Article 4 of the Convention requires each Party to establish nature reserves on wetlands, whether included in the list or not. In addition, it obliges parties to encourage and promote wetlands research, information exchange, management and training. Article 4 further provides that if a Contracting Party deletes or restricts the boundaries of a designated wetland, it should as far as possible compensate for any loss of wetland resources by creating additional nature reserves for the protection of the original habitat.

Article 5 requires consultation among Parties regarding the implementation of obligations under the Convention and the coordination by the Parties of wetlands conservation policies and regulations. Article 6 specifies that the Parties shall convene conferences on the conservation of wetlands and waterfowl.

These substantive obligations are fully consistent with existing U.S. laws and regulations.

The 1982 Protocol specifies the procedure for amending the Convention—an item not covered in the Convention itself. The specified procedure is consistent with current standard practice for amending environmental multilateral agreements as well as with U.S. policy applicable to such amendments. The Protocol also establishes the English, French, German, and Russian language texts of the original Convention as being equally authentic.

No financial obligations would be incurred by the United States as a result of becoming a party to the Convention and Protocol. The United States would have to accept affirmatively any protocols or amendments involving financial commitments to be bound by them. While U.S. agencies do not now anticipate making any cash contributions under the Convention, the Department of Interior plans to provide technical data regarding wetlands inventory, classification, monitoring and management to support the work of the Convention after the United States becomes a Contracting Party.

The U.S. Fish and Wildlife Service of the Department of the Interior has prepared an environmental assessment pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321–4370, discussing the environmental impacts of the Convention and Protocol on U.S. wetlands generally and on the four U.S. wetlands proposed for designation at the time of ratification. The environmental assessment concludes that there would be no adverse impacts on U.S. wetlands generally or on the four wetlands proposed for designation. To the contrary, the assessment indicates that positive and beneficial environmental consequences will be derived from United States participation in the Convention. The environmental assessment will be transmitted separately to the Senate Committee on Foreign Relations.

I recommend that the Convention and Protocol be transmitted to the Senate for its advice and consent to ratification.

Respectfully submitted,

GEORGE P. SHULTZ.

Convention on Wetlands of International Importance especially as Waterfowl Habitat

adopted by the International Conference on the Conservation of Wetlands and Waterfowl at Ramsar, Iran, 2 February 1971

Convention relative aux zones humides d'importance internationale particulièrement comme habitats de la sauvagine

adoptée par la Conférence internationale sur les zones humides et la sauvagine le 2 février 1971 à Ramsar, Iran

Übereinkommen über Feuchtgebiete insbesondere als Lebensraum für Wasser- und Watvögel von internationaler Bedeutung

angenommen durch die internationale Konferenz über Feuchtgebiete und Watvögel, am 2 februar 1971, Ramsar, Iran

Конвенция о водно-болотных угодьях, имеющих международное значение главным образом в качестве местообитаний водоплавающих птиц,

принятая Международной конференцией по водно-болотным угодьям и водоплавающей птице 2-го февраля 1971 г. в Рамсаре, Иран

Convention on Wetlands of International Importance Especially as Waterfowl Habitat

The Contracting Parties,

Recognizing the interdependence of man and his environment;

Considering the fundamental ecological functions of wetlands as regulators of water régimes and as habitats supporting a characteristic flora and fauna, especially waterfowl;

Being convinced that wetlands constitute a resource of great economic, cultural, scientific and recreational value, the loss of which would be irreparable;

Desiring to stem the progressive encroachment on and loss of wetlands now and in the future;

Recognizing that waterfowl in their seasonal migrations may transcend frontiers and so should be regarded as an international resource;

Being confident that the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with co-ordinated international action;

Have agreed as follows:

ARTICLE 1

1. For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brakish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.

2. For the purpose of this Convention waterfowl are birds ecologically dependent on wetlands.

ARTICLE 2

1. Each Contracting Party shall designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance, hereinafter referred to as "the List" which is maintained by the bureau established under Article 8. The boundaries of each wetland shall be precisely described and also delimited on a map and they may incorporate riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six metres at low tide lying within the wetlands, especially where these have importance as waterfowl habitat.

2. Wetlands should be selected for the List on account of their international significance in terms of ecology, botany, zoology, limnology or hydrology. In the first instance wetlands of international importance to waterfowl at any season should be included.

3. The inclusion of a wetland in the List does not prejudice the exclusive sovereign rights of the Contracting Party in whose territory the wetland is situated.

4. Each Contracting Party shall designate at least one wetland to be included in the List when signing this Convention or when depositing its instrument of ratification or accession, as provided in Article 9.

5. Any Contracting Party shall have the right to add to the List further wetlands situated within its territory, to extend the bound-

aries of those wetlands already included by it in the List, or, because of its urgent national interests, to delete or restrict the boundaries of wetlands already included by it in the List and shall, at the earliest possible time, inform the organization or government responsible for the continuing bureau duties specified in Article 8 of any such changes.

6. Each Contracting Party shall consider its international responsibilities for the conservation, management and wise use of migratory stocks of waterfowl, both when designating entries for the List and when exercising its right to change entries in the List relating to wetlands within its territory.

ARTICLE 3

1. The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.

2. Each Contracting Party shall arrange to be informed at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference. Information on such changes shall be passed without delay to the organization or government responsible for the continuing bureau duties specified in Article 8.

ARTICLE 4

1. Each Contracting Party shall promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands, whether they are included in the List or not, and provide adequately for their wardening.

2. Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat.

3. The Contracting Parties shall encourage research and the exchange of data and publications regarding wetlands and their flora and fauna.

4. The Contracting Parties shall endeavour through management to increase waterfowl populations on appropriate wetlands.

5. The Contracting Parties shall promote the training of personnel competent in the fields of wetland research, management and wardening.

ARTICLE 5

The Contracting Parties shall consult with each other about implementing obligations arising from the Convention especially in the case of a wetland extending over the territories of more than one Contracting Party or where a water system is shared by Contracting Parties.

They shall at the same time endeavour to co-ordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna.

ARTICLE 6

1. The Contracting Parties shall, as the necessity arises, convene Conferences on the Conservation of Wetlands and Waterfowl.

2. These Conferences shall have an advisory character and shall be competent inter alia:

(a) to discuss the implementation of this Convention;

(b) to discuss additions to and changes in the List;

(c) to consider information regarding changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

(d) to make general or specific recommendations to the Contracting Parties regarding the conservation, management and wise use of wetlands and their flora and fauna.

(e) to request relevant international bodies to prepare reports and statistics on matters which are essentially international in character affecting wetlands.

3. The Contracting Parties shall ensure that those responsible at all levels for wetlands management shall be informed of, and take into consideration, recommendations of such Conferences concerning the conservation, management and wise use of wetlands and their flora and fauna.

ARTICLE 7

1. The representatives of the Contracting Parties at such Conferences should include persons who are experts on wetlands or waterfowl by reason of knowledge and experience gained in scientific, administrative or other appropriate capacities.

2. Each of the Contracting Parties represented at a Conference shall have one vote, recommendations being adopted by a simple majority of the votes cast, provided that not less than half the Contracting Parties cast votes.

ARTICLE 8

1. The International Union for the Conservation of Nature and Natural Resources shall perform the continuing bureau duties under this Convention until such time as another organization or government is appointed by a majority of two-thirds of all Contracting Parties.

2. The continuing bureau duties shall be, inter alia:

(a) to assist in the convening and organizing of Conferences specified in Article 6;

(b) to maintain the List of Wetlands of International Importance and to be informed by the Contracting Parties of any additions, extensions, deletions or restrictions concerning wetlands included in the List provided in accordance with paragraph 5 of Article 2;

(c) to be informed by the Contracting Parties of any changes in the ecological character of wetlands included in the List provided in accordance with paragraph 2 of Article 3;

(d) to forward notification of any alterations to the List, or changes in character of wetlands included therein, to all Contracting Parties and to arrange for these matters to be discussed at the next Conference;

(e) to make known to the Contracting Party concerned, the recommendations of the Conferences in respect of such alterations to the List or of changes in the character of wetlands included therein.

ARTICLE 9

1. This Convention shall remain open for signature indefinitely.

2. Any member of the United Nations or of one of the Specialized Agencies or of the International Atomic Energy Agency or Party to the Statute of the International Court of Justice may become a party to this Convention by:

(a) signature without reservation as to ratification;

(b) signature subject to ratification followed by ratification;

(c) accession.

3. Ratification or accession shall be effected by the deposit of an instrument of ratification or accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization, (hereinafter referred to as "the Depository").

ARTICLE 10

1. This Convention shall enter into force four months after seven States have become Parties to this Convention in accordance with paragraph 2 of Article 9.

2. Thereafter this Convention shall enter into force for each Contracting Party four months after the day of its signature without reservation as to ratification, or its deposit of an instrument of ratification or accession.

ARTICLE 11

1. This Convention shall continue in force for an indefinite period.

2. Any Contracting Party may denounce this Convention after a period of five years from the date on which it entered into force for that Party by giving written notice thereof to the Depository. Denunciation shall take effect four months after the day on which notice thereof is received by the Depository.

ARTICLE 12

1. The Depository shall inform all States that have signed and acceded to this Convention as soon as possible of:

(a) signatures to the Convention;

(b) deposits of instruments of ratification of this Convention;

(c) deposits of instruments of accession to this Convention;

(d) the date of entry into force of this Convention;

(e) notifications of denunciation of this Convention.

2. When this Convention has entered into force, the Depository shall have it registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Ramsar this 2nd day of February 1971, in a single original in the English, French, German and Russian languages, in any case of divergency the English text prevailing, which shall be deposited with the Depository which shall send true copies thereof to all Contracting Parties.

PROTOCOL TO AMEND THE CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE ESPECIALLY AS WATERFOWL HABITAT

The Contracting Parties,

Considering that for the effectiveness of the Convention on Wetlands of International Importance especially as Waterfowl Habitat, done at Ramsar on 2nd February 1971 (hereinafter referred to as "the Convention"), it is indispensable to increase the number of Contracting Parties;

Aware that the addition of authentic language versions would facilitate wider participation in the Convention;

Considering furthermore that the text of the Convention does not provide for an amendment procedure, which makes it difficult to amend that text as may be considered necessary;

Have Agreed as follows:

ARTICLE 1

The following Article shall be added between Article 10 and Article 11 of the Convention:

"ARTICLE 10 BIS

1. This Convention may be amended at a meeting of the Contracting Parties convened for that purpose in accordance with this Article.

2. Proposals for amendment may be made by any Contracting Party.

3. The text of any proposed amendment and the reasons for it shall be communicated to the organization or government performing the continuing bureau duties under the Convention (hereinafter referred to as "the Bureau") and shall promptly be communicated by the Bureau to all Contracting Parties. Any comments on the text by the Contracting Parties shall be communicated to the Bureau within three months of the date on which the amendments were communicated to the Contracting Parties by the Bureau. The Bureau shall, immediately after the last day for submission of comments, communicate to the Contracting Parties all comments submitted by that day.

4. A meeting of Contracting Parties to consider an amendment communicated in accordance with paragraph 3 shall be convened by the Bureau upon the written request of one third of the Contracting Parties. The Bureau shall consult the Parties concerning the time and venue of the meeting.

5. Amendments shall be adopted by a two-thirds majority of the Contracting Parties present and voting.

6. An amendment adopted shall enter into force for the Contracting Parties which have accepted it on the first day of the fourth month following the date on which two thirds of the Contracting Parties have deposited an instrument of acceptance with the Depositary. For each Contracting Party which deposits an instrument of acceptance after the date on which two thirds of the Contracting Parties have deposited an instrument of acceptance, the amendment shall enter into force on the first day of the fourth month following the date of the deposit of its instrument of acceptance."

ARTICLE 2

In the testimonium following Article 12 of the Convention, the words "in any case of divergency the English text prevailing" shall be deleted and replaced by the words "all texts being equally authentic".

ARTICLE 3

The revised text of the original French version of the Convention is reproduced in the Annex to this Protocol.

ARTICLE 4

This Protocol shall be open for signature at Unesco headquarters in Paris from 3 December 1982.

ARTICLE 5

1. Any State referred to in Article 9, paragraph 2, of the Convention may become a Contracting Party to this Protocol by:

(a) signature without reservation as to ratification, acceptance or approval;

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval;

(c) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument of ratification, acceptance, approval or accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as "the Depositary").

3. Any State which becomes a Contracting Party to the Convention after the entry into force of this Protocol shall, failing an expression of a different intention at the time of signature or of the deposit of the instrument referred to in Article 9 of the Convention, be considered as a Party to the Convention as amended by this Protocol.

4. Any State which becomes a Contracting Party to this Protocol without being a Contracting Party to the Convention, shall be considered as a Party to the Convention as amended by this Protocol as of the date of entry into force of this Protocol for that State.

ARTICLE 6

1. This Protocol shall enter into force the first day of the fourth month following the date on which two thirds of the States which are Contracting Parties to the Convention on the date on which this Protocol is opened for signature have signed it without reservation as to ratification, acceptance or approval, or have ratified, accepted, approved or acceded to it.

2. With regard to any State which becomes a Contracting Party to this Protocol in the manner described in paragraph 1 and 2 of Article 5 above, after the date of its entry into force, this Protocol shall enter into force on the date of its signature without reservation as to ratification, acceptance, or approval, or of its ratification, acceptance, approval or accession.

3. With regard to any State which becomes a Contracting Party to this Protocol in the manner described in paragraph 1 and 2 of Article 5 above, during the period between the date on which this Protocol is opened for signature and its entry into force, this Protocol shall enter into force on the date determined in paragraph 1 above.

ARTICLE 7

1. The original of this Protocol, in the English and French languages, each version being equally authentic, shall be deposited with the Depositary. The Depositary shall transmit certified copies of each of these versions to all States that have signed this Protocol or deposited instruments of accession to it.

2. The Depositary shall inform all Contracting Parties of the Convention and all States that have signed and acceded to this Protocol as soon as possible of:

(a) signatures to this Protocol;

(b) deposits of instruments of ratification, acceptance, or approval of this Protocol;

(c) deposits of instruments of accession to this Protocol;

(d) the date of entry into force of this Protocol.

3. When this Protocol has entered into force, the Depositary shall have it registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Protocol.

DONE at Paris on 3 December 1982.

○